

Appl. No. 10/574,191
Docket No. Z07918Q
Amdt. dated June 21, 2011
Reply to Office Action mailed on 03/21/11
Customer No. 27752

REMARKS

Claim Status

Claims 1-9, 12, 13, 15-20, 22 and 23 are pending in the present application. No additional claims fee is believed to be due.

Rejection Under 35 USC §103(a) Over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of JP 2001-128728A.

Claims 1-9, 12, 13, 15-20 and 22-23 have been rejected under 35 USC §103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245 or '245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1 or '383) further in view JP 2001-128728A or '728. This rejection is traversed as the combination of references fails to properly establish or support a *prima facie* case of obviousness under 35 USC §103 by failing to teach or suggest the combination of elements set forth in the claims.

As acknowledged by the Office Action, the *Magnus* et al., reference fails to teach or suggest the use of a drive motor to wind a tape of to cause motion of the device across the surface of the skin, the actuation of the drive motor by contact with the skin, or the use of rotating tape guide elements. Applicant submits that the use of a motor in the *Floessholzer* reference for the purpose of removing a depilation tape which has been in contact with the target skin for a sufficient amount of time to allow the depilation wax to cure, does not suggest the continuous winding of a tape for the purpose of epilation and concurrently providing a motive force for the epilator. The motor of the reference does not result in the movement of the device across the skin and doing so would be counterproductive to the effective use of the device as the wax would not have had time to cure. Similarly, the addition of a pressure sensor to cause the operation of the winding motor of *Floessholzer* would be detrimental to the successful use of the device as the device would wind the heated tape prior to the time at which the tape could effectively remove hair via the cured wax. Winding the tape as the device contacts the skin would not allow the wax to cure.

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The addition of the '728 reference fails to cure these deficiencies. The '728 reference adds the use of a pressure sensor and accompanying logic circuitry for the purpose of determining the pressure at which the clipping device is being applied to the skin and then preventing the operation of the device at ineffective pressures. There is no pressure at which winding the tape of *Floessholzer* while the device is in contact with the skin will be effective.

Further, the *Magnus* reference describes the use of the device in terms of the operator applying a quick pull (col 4, line 70) or pulling the device quickly in a manner similar to the operation of a tweezers (col 3, lines 48-50). This use, capturing hair and pulling it out in an intermittent manner would not benefit by an alteration of the device to have it move across the surface of the skin. Hair is acquired and pulled out manually by pulling the device. Forward motion of the device is not part of the sequence described. Additionally, the apparatus depicted in figure 4 of *Magnus* shows two tapes 7, each in contact with the skin and configured to move in opposing directions toward take up roll 4. Applicant fails to understand how such a configuration can inherently yield a transverse motion of the device as the force generated by the motion of one tape toward item 4 will be equal and opposite to the force generated by the motion of the other tape. Additionally, item 33 characterized by the Office Action as illustrating a rotating element is described as a pin or projections but there is no description that the item is configured to rotate despite its depicted round cross section.

The combination of references fails to teach or suggest each of the limitations of the claimed invention. Further, the combination is poorly motivated as the chosen elements would in combination defeat the performance desired in the operation of the disclosed structures. The respective references have not been taken each as whole leading to this result. The rejections under 35 USC §103 should be reconsidered and withdrawn.

Rejection Under 35 USC §103(a) Over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of Brown et al (US Pub. No. 2005/0234477).

Claims 16-20, 22 and 23 have been rejected under 35 USC §103(a) as being unpatentable over Magnus et al. (U.S. 2,423,245) in view of Floessholzer et al. (US Pub. No. 2006/0004383 A1) further in view of Brown et al (US Pub. No. 2005/0234477).

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The combination of *Magnus* and *Floessholzer* fails to teach or suggest an apparatus which will move forward upon actuation of a drive motor winding up a tape in response to bringing the device into contact with skin. The addition of the *Brown* reference fails to cure this deficiency. The *Brown* reference neither teaches nor suggests an improvement which will result in the movement of an epilator of *Magnus* upon actuation of a drive motor. Element 33 of *Magnus* is not described as rotating or rotatable, it is simply round. The *Brown* reference does not teach propulsion in sequence with skin contact, *Floessholzer* does not teach propulsion in sequence with skin contact and the winding of tapes 7 in *Magnus* cannot yield propulsion due to the mechanical configuration of the device. The cited combination of references fails to teach or suggest the combination of limitations as set forth in the claims. The rejection under 35 USC §103 should be reconsidered and withdrawn.

Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied references. In view of the foregoing, reconsideration of this application, and allowance of the pending claim(s) are respectfully requested.

Respectfully submitted,

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